

Application No. 10/822,548

REMARKS

Claims 1, 33, 37, and 40 are pending. By this Amendment, claims 2-32, 34-36, 37, and 41 are cancelled. Independent claims 1, 33, and 37 are amended to broaden these claims. No new matter is added.

The foreign references noted in the Office Action as not being reviewed from the Information Disclosure Statements will be reviewed to determine materiality. It is believed that these references are merely cumulative of references already of record. An updated IDS statement reflecting the results of this review will be submitted under separate cover.

The title of the application has been amended to be more descriptive.

The claim objections and rejections under Section 112 and Section 101 are rendered moot as a result of the cancellation of those claims. The note as to potential double patenting among different claims in the application is also now moot.

With respect to the remaining claims, it is respectfully submitted that those claims are in condition for allowance other than with respect to the rejection based on Stangel. Upon receipt of such an indication in the next Office Action, the applicants will submit the required documentation to provoke an interference with the Stangel reference. As support for the prima facie case of interference in this case, it is noted that the provisional application 60/099,654 to which Stangel claims priority lists Dr. Marc Seghatol as one of the inventors for that provisional application, even though Dr. Stangel was omitted from the declaration for the Stangel utility patent application.

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The Examiner is invited to telephone the undersigned if the Examiner believes it would be useful to advance prosecution.

Please note that this paper, and all others filed contemporaneously with it, are filed pursuant to representative capacity as specified in 37 CFR § 1.34, pending formal substitution of attorneys, which shall occur at the earliest opportunity with every intent to avoid delays in prosecution on the merits.

Respectfully submitted



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